

No. 12-2055 DH

We find that the Missouri Department of Health and Senior Services (“the Department”) has cause to discipline Mea Jimerson’s family child care home provider license.

The Department filed a complaint on November 21, 2012. Jimerson was personally served with our notice of complaint/notice of hearing on March 26, 2013. She did not file an answer. We held a hearing on May 23, 2013. The Department appeared by Brenda Rackers. Jimerson did not appear, and no attorney appeared for her. This case became ready for our decision on August 1, 2013, the date the last written argument was filed.

1. The Department issued Jimerson a license to maintain a Family Child Care Home. The license was effective from August 1, 2011, through July 31, 2013.

2. The license specified that Jimerson could care for a total of ten children ages birth through twelve years, 24 hours a day.¹
3. The license also contained the following limitations:
- a. When there were ten children in care, no more than four of the children could be under two years of age with two adult caregivers;
 - b. When there were six children in care, no more than three of the children could be under two years of age with one adult caregiver;
 - c. When there were seven to ten children in care, no more than two of the children could be under two years of age with one adult caregiver;
 - d. No more than eight children could be under two years of age with two adult caregivers.

Operating Above License Capacity

4. The Department did not grant Jimerson permission to exceed the maximum number of children (ten) permitted by her license.

5. Jimerson operated above capacity on 41 separate dates, as set forth in the table below:

Date	Total number of children	Number of related children	Number of unrelated children	Number of unrelated children in excess of the maximum licensed number
5/1/2012	27	6	21	11
5/2/2012	16	4	12	2
5/3/2012	19	6	13	3
5/4/2012	21	5	16	6
5/7/2012	21	6	15	5
5/9/2012	21	6	15	5
5/10/2012	26	6	20	10
5/11/2012	26	6	20	10

¹ Department regulation 19 CSR 30-61.045(2)(B) states that “Licensing rules shall not apply to children related to the provider as defined in 19 CSR 40-61.010(18).” There appears to be no cap on the number of related children that may be present in a family child care home.

5/14/2012	26	6	20	10
5/15/2012	20	6	14	4
5/16/2012	23	6	17	7
5/17/2012	26	6	20	10
5/21/2012	27	6	21	11
5/22/2012	24	6	18	8
5/23/2012	19	6	13	3
5/24/2012	25	7	18	8
5/29/2012	20	7	13	3
5/30/2012	30	7	23	13
5/31/2012	18	7	11	1
6/12/2012	18	5	13	3
6/13/2012	21	8	13	3
6/14/2012	16	5	11	1
6/18/2012	20	5	15	5
6/19/2012	17	5	12	2
6/21/2012	18	5	13	3
6/26/2012	25	10	15	5
6/28/2012	25	10	15	5
6/29/2012	27	10	17	7
7/2/2012	23	8	15	5
7/3/2012	23	8	15	5
7/6/2012	23	8	15	5
7/9/2012	22	8	14	4
7/10/2012	22	8	14	4
7/11/2012	22	8	14	4
7/12/2012	22	8	14	4
7/13/2012	22	8	14	4
7/16/2012	24	10	14	4
7/17/2012	24	10	14	4
7/18/2012	22	10	12	2
7/19/2012	22	10	12	2
7/20/2012	24	10	14	4

Child Access to Areas not Approved for Child Care and Improper Bedding

6. On August 24, 2012, Cathy Kennon and Amy Nolte, Department employees, conducted an unannounced inspection of Jimerson's family child care home.
7. Kennon and Nolte found six children sleeping in the living room.
8. One child was sleeping in a chair, one child was sleeping on the floor, and the others were sleeping on the couch.

9. Four of the children were unrelated to Jimerson.
10. The living room is on the main floor of Jimerson's residence.
11. Jimerson's license restricted child care to the lower level of the residence.
12. The living room was not approved for child care.

The April 19 Inspection

13. On April 19, 2012, at 7:45 PM, Nolte conducted an unannounced inspection of Jimerson's family child care home.
14. Nolte documented eleven children present at that time. Jimerson told Nolte that the family child care home was closed for the evening and that all of the children were related to her.
15. Jimerson submitted child attendance records to LINC² to obtain a child care subsidy for the date of April 19, 2012, for nine children who were not present on April 19, 2012, at 7:45 PM, as follows:³

Child	Time that Jimerson recorded the child arrived at the family child care home on April 19, 2012	Time that Jimerson recorded the child departed from the family child care home on April 19, 2012
N.D.	1:00 PM	11:00 PM
I.R.	1:00 PM	11:00 PM
D.L.	1:00 PM	11:00 PM
A.F.	1:00 PM	11:00 PM
J.L.	1:00 PM	11:00 PM
D.A.	12:00 PM	8:00 PM
K.T.1	2:00 PM	10:00 PM
K.G.	2:00 PM	10:00 PM
K.T.2	2:00 PM	10:00 PM

16. Jimerson normally served lunch at 11:30 AM, an afternoon snack at 2:30 PM, supper at 6:30 PM, and an evening snack at 8:00 PM.

² LINC is the Department's subcontractor that disburses payments to child care providers who care for children who qualify for the Department's subsidies.

³ Paragraphs 17, 18, 20, 21, 23, 24, 26, and 27 of the Department's brief each state that Jimerson filed reimbursement forms for child care subsidy or meal money for children who were not present. We assume that Jimerson submitted similar requests for children who were present in her family child care home. We address only the reimbursement forms that are referred to in the complaint; that is, those for children who were not present.

17. Jimerson submitted a meal count form to the YWCA of St. Joseph, Missouri (“the YWCA”),⁴ to obtain meal money reimbursement for the date of April 19, 2012, for four children who were not present on April 19, 2012, at 7:45 PM, as follows:

Child	Meal(s) recorded on April 19, 2012
A.H.1	Supper, evening snack
A.H.2	Supper, evening snack
D.W.	Supper, evening snack
K.C.	Supper, evening snack

The April 20 Inspection

18. On April 20, 2012, at 1:20 PM, Kennon conducted an unannounced inspection of Jimmerson’s family child care home. Kennon documented fourteen children present at that time.

19. Jimerson submitted child attendance records to LINC to obtain the child care subsidy for the date of April 20, 2012, for thirteen children who were not present on April 20, 2012, at 1:20 PM, as follows:

Child	Time that Jimerson recorded the child arrived at the family child care home on April 19, 2012	Time that Jimerson recorded the child departed from the family child care home on April 19, 2012
N.D.	1:00 PM	11:00 PM
I.R.	1:00 PM	11:00 PM
D.L.	12:00 PM	8:00 PM
A.F.	1:00 PM	11:00 PM
J.L.	1:00 PM	11:00 PM
D.A.	12:00 PM	8:00 PM
K.T.1	2:00 PM	10:00 PM
K.G.	2:00 PM	10:00 PM
K.T.2	2:00 PM	10:00 PM
T.M.1	6:00 AM	6:00 PM
A.H.1	6:00 AM	6:00 PM
A.H.2	6:00 AM	6:00 PM
T.M.2	6:00 AM	6:00 PM

⁴ The YWCA of St. Joseph is the Department’s subcontractor for processing reimbursements for meal costs to child care providers who care for children who qualify for the Department’s subsidies.

20. Jimerson submitted a meal count form to the YWCA to obtain meal money reimbursement for the date of April 20, 2012, for four children who were not present on April 20, 2012 at 1:20 PM, as follows:

Child	Meal(s) recorded on April 19, 2012
K.H.1	Breakfast, afternoon snack
K.H.2	Breakfast, lunch, afternoon snack
M.H.	Breakfast, lunch, afternoon snack
K.C.	Afternoon snack, supper, evening snack

The May 16 Inspection

21. On May 16, 2012, at 2:00 PM, Nolte conducted an unannounced inspection of Jimmerson's family child care home. Nolte documented six children present at that time.

22. Jimerson submitted child attendance records to LINC to obtain the child care subsidy for the date of May 16, 2012, for fourteen children who were not present on May 16, 2012, at 2:00 PM, as follows:

Child	Time that Jimerson recorded the child arrived at the family child care home on April 19, 2012	Time that Jimerson recorded the child departed from the family child care home on April 19, 2012
A.L.1	6:00 AM	6:00 PM
A.L.2	6:00 AM	6:00 PM
K.G.	1:00 PM	11:00 PM
A.F.	1:00 PM	11:00 PM
J.L.	1:00 PM	11:00 PM
N.D.	1:00 PM	11:00 PM
I.R.	1:00 PM	11:00 PM
D.A.	6:00 AM	6:00 PM
K.T.3	6:00 AM	6:00 PM
T.M.1	6:00 AM	6:00 PM
T.M.2	6:00 AM	6:00 PM
A.H.1	6:00 AM	6:00 PM
D.L.	2:00 PM	10:00 PM
D.A.	6:00 AM	6:00 PM
J.G.1	1:00 PM	11:00 PM
J.G.2	1:00 PM	11:00 PM

23. Jimerson submitted a meal count form to the YWCA to obtain meal money reimbursement for the date of May 16, 2012, for eight children who were not present on May 16, 2012 at 2:00 PM, as follows:

Child	Meal(s) recorded on April 19, 2012
D.J.	Breakfast, lunch, afternoon snack
D.F.	Breakfast, lunch, afternoon snack
E.P.	Breakfast, lunch, afternoon snack
K.H.2	Breakfast, lunch, afternoon snack
P.J.	Breakfast, lunch, afternoon snack
Z.K.	Breakfast, lunch, afternoon snack
D.W.	Breakfast, lunch, afternoon snack
K.C.	Afternoon snack, supper, evening snack

The July 10 Inspection

24. On July 10, 2012, at 2:15 PM, Nolte conducted an unannounced inspection of Jimerson's family child care home. Nolte documented eight children present at that time.

25. Jimerson submitted a child attendance record to LINC to obtain the child care subsidy for T.M.2 Jimerson certified on that form that T.M.2 was in attendance at her family child care home on July 10, 2012, from 6:00 AM to 6:00 PM. T.M.2 was not present when Nolte conducted the unannounced inspection on July 10, 2012.

26. Jimerson submitted a meal count form to the YWCA to obtain meal money reimbursement for T.M.2 Jimerson certified on that form that T.M.2 was in attendance at her family child care and received breakfast, lunch, and an afternoon snack on July 10, 2012.

Reporting of Related Children

27. During the unannounced inspection on April 20, 2012, Jimerson informed Kennon that P.J. was related to Jimerson because he was her grandson.

28. Later during that same inspection, Mikala Jimerson, Jimerson's daughter, told Kennon that P.J. was actually the son of Rashiya Johnson, Mikala's boyfriend, and not related to Jimerson.

29. During the unannounced inspection on July 10, 2012, Jimerson informed Nolte that P.J. was related to her.

30. During the unannounced inspection on August 24, 2012, Jimerson informed Kennon that P.J. was not related to her and was Rashiya Johnson's nephew.

31. Rashiya Johnson was Jimerson's assistant.

32. Rashiya Johnson confirmed to Kennon that P.J. was his nephew.

33. During the unannounced inspection on April 20, 2012, Jimerson informed Kennon that Z.K. was her granddaughter.

34. Jimerson did not identify Z.K. as a relation on an enrollment chart submitted to the Department on May 16, 2012.

35. During a facility review conference with Jimerson on July 27, 2012, Jimerson informed the Department that Z.K. was not related to her.

36. During the unannounced inspection on August 24, 2012, Jimerson informed Kennon that the child named Z.K. was a family friend.

37. During the unannounced inspection on April 20, 2012, Jimerson informed Kennon that A.F. was her niece, the daughter of her sister.

38. A.F. is Jimerson's great-niece.

39. During the unannounced inspection on May 16, 2012, Jimerson informed Nolte that J.G.1 and J.G.2 were related to Jimerson.

40. Jimerson did not identify J.G.1 and J.G.2 as related to her during the April 20, 2012, inspection, the facility review conference on July 27, 2012, or on an enrollment sheet submitted to the Department on August 22, 2012.

Unapproved Assistant

41. Nolte conducted an unannounced inspection on August 21, 2012. She arrived at Jimerson's family child care home at approximately 12:40 PM.

42. When Nolte knocked on the door to Jimerson's family child care home (a separate entrance from the rest of the home) and rang the doorbell, no one answered.

43. Nolte then went to the other door to Jimerson's home (the front door) and knocked on it. No one answered that door, either.

44. After Nolte knocked on Jimerson's front door, she saw a "young female" look out the window to the right of the door.⁵

45. About 23 minutes after Nolte arrived and began knocking on the doors and ringing the doorbell, Rashiya Johnson, an approved assistant, arrived at Jimerson's house and let Nolte into the facility.

46. Upon entering Jimerson's family child care home, Nolte observed six children sleeping: A.L.3, R.J., K.H.2, A.L.1, A.L.2, and K.T.3.⁶

47. A.L.1 and R.J. are Jimerson's grandsons.

48. Joy Hampton had been the only person in the home caring for these six children.

49. Jimerson arrived at her house five to ten minutes after Rashiya Johnson let Nolte into the family child care home. She stated that she had been enrolling children into school.

50. On August 21, 2013, Joy Hampton was not approved to care for these children.

Procedural Facts

51. On September 26, 2012, the Department sent Jimerson a letter informing Jimerson that the Department was revoking her license because she continuously operated above her license's capacity and because on four separate occasions she claimed child care subsidy and food

⁵ Tr. 79. Although unidentified, we infer that the "young female" was a child in care at Jimerson's home.

⁶ Pet. Ex. 12.

program reimbursements for children who were not present in her family child care home. The Department also informed Jimerson that the revocation would become final 31 days from that date of the letter unless Jimerson wished to appeal.

52. On October 3, 2012, the Department received a letter from Jimerson stating that she wished to appeal.

53. The Department filed a complaint with this Commission on November 21, 2012.

Conclusions of Law

The Department filed a complaint pursuant to § 210.245,⁷ which states:

2. If the department of health and senior services proposes to deny, suspend, place on probation or revoke a license, the department of health and senior services shall serve upon the applicant or licensee written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or licensee shall have thirty days to request in writing a hearing before the administrative hearing commission and that such request shall be made to the department of health and senior services. If no written request for a hearing is received by the department of health and senior services within thirty days of the delivery or mailing by certified mail of the notice to the applicant or licensee, the proposed discipline shall take effect on the thirty-first day after such delivery or mailing of the notice to the applicant or licensee. If the applicant or licensee makes a written request for a hearing, the department of health and senior services shall file a complaint with the administrative hearing commission within ninety days of receipt of the request for a hearing.

This statute gives us jurisdiction to hear this case. The Department has the burden of proof by a preponderance of the evidence.⁸

Section 210.221⁹ states:

1. The department of health shall have the following powers and duties:

⁷ Statutory references are to the RSMo Supp. 2012 unless otherwise indicated.

⁸ See *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App. E.D. 1989).

⁹ RSMo 2000.

(2) To inspect the conditions of the homes and other places in which the applicant operates a child-care facility, inspect their books and records, premises and children being served, examine their officers and agents, deny, suspend, place on probation or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health. The director may also revoke or suspend a license when the licensee fails to renew or surrenders the license[.]

The Department argues that Jimerson violated several regulations. Before we address them, we note that 19 CSR 30-61.045(2)(B)¹⁰ states that “[l]icensing rules shall not apply to children related to the provider as defined in 19 CSR 40-61.010(18).” There appears to be no cap on the number of related children that may be present in a family child care home. The only cap is on the number of unrelated children. Thus, although the Department never addressed this point specifically, the Department’s regulations apply only to the number of children unrelated to the provider and the activities that those children engage in.

Exceeding Licensed Capacity

The Department alleges that Jimerson exceeded her licensed capacity on May 1, 2, 3, 4, 7, 9, 10, 11, 14, 15, 16, 17, 21, 22, 23, 24, 29, 30, and 31, 2012; June 12, 13, 14, 18, 19, 21, 26, 28, and 29, 2012; and July 2, 3, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, and 20, 2012. The Department alleges that Jimerson’s conduct violated Department regulation 19 CSR 30-61.045(3)(U). That regulation states: “[t]he number and ages of children a family day care home is authorized to have in care at any one time shall be specified on the license and shall not be

¹⁰ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update

exceeded except as permitted within these rules.” Jimerson’s license specified that she could have a maximum of ten unrelated children in her family day care home.

Jimerson had more unrelated children than permitted on 41 days during May, June, and July 2012. The Department did not authorize her to care for additional unrelated children and Jimerson has not pointed to any exception that would permit her to care for such children. We conclude that Jimerson violated 19 CSR 30-61.045(3)(U).

Child Access to Areas not Approved for Child Care and Improper Bedding

The Department alleges that Jimerson allowed four unrelated children to take a nap in the living room on the main floor. The Department contends that this action violated 19 CSR 30-61.085(1)(E), which states: “[c]hildren shall have no access to areas not approved for child care.” The Department also alleges that one child was sleeping in a chair and another child was sleeping on a blanket on the floor. The Department alleges that these sleeping arrangements violated 19 CSR 30-61.095(1)(B)1.A, which states that “[a] cot, bed, sofa, padded playpen or crib with an individually assigned sheet and blanket shall be provided for each child who naps or sleeps.”

On August 24, 2012, Kennon and Nolte conducted an unannounced inspection of Jimerson’s family child care home. They found six children sleeping in the living room. One child was sleeping in a chair, one child was sleeping on the floor, and the others were sleeping on the couch. Four of the children were unrelated to Jimerson. There is no evidence as to which children were sleeping on the couch and which were sleeping in the chair and on the floor.

The living room is on the main floor of Jimerson’s residence. Jimerson’s license restricted child care to the lower level of the residence, so the living room was not approved for child care. Four unrelated children were in the living room. We conclude that Jimerson violated 19 CSR 30-61.085(1)(E).

There is no evidence as to which children were in the chair and on the floor. There were six children in the room: two related children and four unrelated children. Department regulation 19 CSR 30-61.045(2)(B) states that “[l]icensing rules shall not apply to children related to the provider as defined in 19 CSR 40-61.010(18).” The Department has the burden of proving that unrelated children were sleeping in the chair and on the floor. The Department has failed to meet its burden here. We find no violation of 19 CSR 30-61.095(1)(B)1.A.

Failure to Maintain Accurate Records

The Department contends that Jimerson violated 19 CSR 30-61.210(1), which states: “[t]he child care provider shall maintain accurate records to meet administrative requirements and to ensure knowledge of the individual needs of children and their families.” The record-keeping allegations stem from unannounced inspections that the Department conducted on April 19, 2012, April 20, 2012, May 16, 2012, and July 10, 2012.

1. April 19, 2012

On April 19, 2012, at 7:45 PM, Nolte counted eleven children present at Jimerson’s family child care home during an unannounced inspection. Jimerson indicated that her family child care home was closed at that time because she had family in town and that all of the children were related to her. Jimerson later requested a child care subsidy reimbursement for the care of N.D., I.R., D.L., D.A., A.F., J.L., K.G., K.T.1 and K.T.2 for the date of April 19, 2012. On those reimbursement forms, Jimerson stated that she cared for each of those nine children from 12:00 PM (D.L., D.A.), 1:00 PM (N.D., I.R., A.F., J.L.), or 2:00 PM (K.G., K.T.1, K.T.2) until 8:00 PM (D.L., D.A.), 10:00 PM (K.G., K.T.1, K.T.2) or 11:00 PM (N.D., I.R., A.F., J.L.) on April 19, 2012. None of those children were present at Jimerson’s family child care home on April 19, 2012, during Nolte’s inspection at 7:45 PM.

Jimerson submitted a meal count form to the Department's contractor in order to obtain meal money reimbursement for April 19, 2012, for the following four children: A.H.1, A.H.2, D.W. and K.C. Jimerson claimed that all four of these children were present on April 19, 2012, for supper, which is served at 6:30 PM, and for an evening snack, which is served at 8:00 PM. None of these four children were present when Nolte conducted the unannounced inspection at approximately 7:45 PM on April 19, 2012.

Jimerson submitted false records for thirteen children for the date of April 19, 2012. We conclude that Jimerson failed to keep accurate records of the children present at her family child care home on April 19, 2012.

2. April 20, 2012

On April 20, 2012, at 1:20 PM, Kennon counted fourteen children present at Jimerson's family child care home during an unannounced inspection. Jimerson later requested a child care subsidy reimbursement for the care of N.D., I.R., D.L., D.A., A.F., J.L., K.G., K.T.1, K.T.2, T.M.1, T.M.2, A.H.1 and A.H.2 on April 20, 2012. On those reimbursement forms, Jimerson stated that she cared for each of those thirteen children from 6:00 AM (T.M.1, T.M.2, A.H.1, A.H.2), 12:00 PM (D.L., D.A.), 1:00 PM (N.D., I.R., A.F., J.L.), or 2:00 PM (K.G., K.T.1, K.T.2) until 6:00 PM (T.M.1, T.M.2, A.H.1, A.H.2) 8:00 PM (D.L., D.A.), 10:00 PM (K.G., K.T.1, K.T.2) or 11:00 PM (N.D., I.R., A.F., J.L.) on April 20, 2012.

Jimerson did not begin to care for K.G., K.T.1, and K.T.2 until after 2:00 PM. Kennon's inspection began at 1:20 PM. The record does not show when Kennon left. We thus have an inadequate factual basis to find that Kennon was at Jimerson's family child care home until 2:00 PM, and cannot conclude that the records for K.G., K.T.1, and K.T.2 are inaccurate. None of the other children were present at Jimerson's family child care home on April 20, 2012, during Kennon's inspection at 1:20 PM.

Jimerson submitted a meal count form to the Department's contractor in order to obtain meal money reimbursement for April 20, 2012, for the following four children: K.H.1, K.H.2, M.H. and K.C. In that document, Jimerson claimed that K.H.1, K.H.2, M.H. were present for both lunch and an afternoon snack on April 20, 2012. Lunch is served at 11:30 AM, and the afternoon snack is served at 2:30 PM. None of these three children were present when Nolte conducted an unannounced inspection at 1:20 PM on April 20, 2012. K.C., on the other hand, was marked as receiving only an afternoon snack. There is insufficient evidence that K.C. was not at Jimerson's family child care home at 2:30 PM.

Jimerson submitted false records for thirteen children for the date of April 20, 2012. We conclude that Jimerson failed to keep accurate records of the children present at her family child care home on April 20, 2012.

3. May 16, 2012

On May 16, 2012, at 2:00 PM, Nolte conducted an unannounced inspection of Jimerson's family child care home. Nolte counted six children as present.

Jimerson requested a child care subsidy reimbursement for A.L.1, A.L.2, K.G., A.F., J.L., N.D., I.R., K.T.3, T.M.1, T.M.2, A.H.1, D.L., and D.A. On those reimbursement forms, Jimerson stated that she cared for each of those thirteen children from 6:00 AM (A.L.1, A.L.2, K.T.3, T.M.1, T.M.2, A.H.1), 1:00 PM (K.G., A.F., J.L., N.D., I.R.), or 2:00 PM (D.L., D.A.) until 6:00 PM (A.L.1, A.L.2, K.T.3, T.M.1, T.M.2, A.H.1), 10:00 PM (D.L., D.A.) or 11:00 PM (K.G., A.F., J.L., N.D., I.R.) on May 16, 2012. None of these children were present at Jimerson's family child care home on May 16, 2012, during Nolte's inspection at 2:00 PM.

Jimerson submitted a meal count form to the Department's contractor in order to obtain meal money reimbursement for May 16, 2012, for the following eight children: D.J., D.F., E.P., K.H.2, P.J., Z.K., D.W., and K.C. In that document, Jimerson claimed that all of the children

except K.C. were present for breakfast, lunch, and an afternoon snack on May 16, 2012. Lunch is served at 11:30 AM, and the afternoon snack is served at 2:30 PM. None of these seven children were present when Nolte conducted an unannounced inspection at 2:00 PM on May 16, 2012. K.C., on the other hand, was marked as receiving only an afternoon snack, supper, and an evening snack. There is insufficient evidence that K.C. was not at Jimerson's family child care home at 2:30 PM when the snack was served.

Jimerson submitted false records for twenty children for the date of May 16, 2012. We conclude that Jimerson failed to keep accurate records of the children present at her family child care home on May 16, 2012.

4. July 10, 2012

On July 10, 2012, Nolte conducted an unannounced inspection of Jimerson's family child care home. The inspection lasted from 2:15 PM until 3:45 PM. Nolte counted eighteen children as present.

Jimerson requested a child care subsidy reimbursement for T.M.2. On that reimbursement form, Jimerson stated that she cared for T.M.2 from 6:00 AM until 6:00 PM. T.M.2 was not present when the inspection occurred. Jimerson's record was erroneous.

Jimerson also submitted a meal count form to the Department's contractor in order to obtain meal money reimbursement for May 16, 2012, for T.M.2. In that document, Jimerson claimed that T.M.2 was present for breakfast and lunch on July 10, 2012. The fact that T.M.2 was not present at 2:15 PM does not mean that T.M.2 did not receive breakfast and lunch. The Department has not met its burden of proof on this issue.

We conclude that Jimerson failed to keep accurate records regarding T.M.2 on July 10, 2012.

Good Character

The Department alleges that Jimerson violated 19 CSR 30-61.105(1)(D), which states that “[c]aregivers shall be of good character and intent and shall be qualified to provide care conducive to the welfare of children.”

We interpret “good character and intent” to be at least equivalent to the concept of “good moral character” used in other licensing laws. Good moral character is honesty, fairness, and respect for the law and the rights of others.¹¹ Dishonesty is a lack of integrity or a disposition to defraud or deceive.¹²

The Department alleges that Jimerson was dishonest because Jimerson submitted false statements to the Department. As previously discussed, Jimerson submitted documents to the Department claiming that she was entitled to child care subsidies and meal reimbursement for children on April 19, 2012, April 20, 2012, May 16, 2012, and July 16, 2012. We found that Jimerson submitted a total of 47 false claims for these four dates. Her conduct shows a lack of integrity and was dishonest.

The Department also alleges that Jimerson made false statements to Department employees about whether certain children were related to her. The Department relies on four groups of statements.

First, during the unannounced inspection on April 20, 2012, Jimerson informed Kennon that P.J. was related to Jimerson because he was her grandson. Later during that same inspection, Mikala Jimerson, Jimerson’s daughter, told Kennon that P.J. was actually the son of Rashiya Johnson, Mikala’s boyfriend, and not related to Jimerson. During the unannounced inspection on July 10, 2012, Jimerson again informed Nolte that P.J. was related to her. During

¹¹ *Hernandez v. State Bd. of Regis’n for Healing Arts*, 936 S.W.2d 894, 899 n.1 (Mo. App., W.D. 1997)

¹² Merriam-Webster’s Collegiate Dictionary 359 (11th ed. 2004).

the unannounced inspection on August 24, 2012, Jimerson informed Kennon that P.J. was not related to her and was Rayisha Johnson's nephew.

Second, also on April 20, 2012, Jimerson informed Kennon that Z.K. was her granddaughter. Jimerson did not identify Z.K. as a relation on an enrollment chart submitted to the Department on May 16, 2012. During a facility review conference with Jimerson on July 27, 2012, Jimerson informed the Department that Z.K. was not related to her. During the unannounced inspection on August 24, 2012, Jimerson informed Kennon that the child named Z.K. was a family friend.

Third, on April 20, 2012, Jimerson also informed Kennon that A.F. was her niece, the daughter of her sister. Jimerson later told the Department that A.F. was Jimerson's great-niece.

Fourth, during the unannounced inspection on May 16, 2012, Jimerson informed Nolte that J.G.1 and J.G.2 were related to Jimerson. Jimerson did not identify J.G.1 and J.G.2 as related to her during the April 20, 2012, inspection, the facility review conference on July 27, 2012, or on an enrollment sheet submitted to the Department on August 22, 2012.

In describing each of these relationships, Jimerson made at least one dishonest statement to Department employees. The word "related" as used in the Department's regulations means "any of the following relationships by marriage, blood or adoption between the provider and the children in care: parent, grandparent, great-grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, niece, nephew or first cousin."¹³ Jimerson was responding to questions posed by the Department about whether the children were related under the Department's regulations. Jimerson gave answers that were false and that conflicted, in four cases, with written information that Jimerson gave to the Department. Jimerson's statements were dishonest.

¹³ 19 CSR 30-61.125(18).

Unregistered Assistant

The Department alleges that Jimerson violated 19 CSR 30-61.105(3)(A). This regulation states that “[a]n approved assistant shall always be available.”

When Nolte conducted an unannounced inspection of Jimerson’s family child care home on August 21, 2012, no approved assistant was initially present. Six children were sleeping in the living room, four of whom were not related to Jimerson. Joy Hampton had been the only person in the home caring for the four unrelated children, and she was not approved to care for those four unrelated children.¹⁴

Based on these facts, we find that Hampton was not an approved assistant and that she had care of four unrelated children in Jimerson’s family child care home on August 21, 2012. Jimerson therefore violated 19 CSR 30-61.105(3)(A).

Summary

We find that the Department has cause to discipline Jimerson’s license under § 210.221.1(2) because Jimerson violated 19 CSR 30-61.045(3)(U), 19 CSR 30-61.085(1)(E), 19 CSR 30-61.105(1)(D), 19 CSR 30-61.105(3)(A), and 19 CSR 30-61.210(1).

SO ORDERED on August 29, 2013.

\s\ Karen A. Winn

KAREN A. WINN
Commissioner

¹⁴ Jimerson did not submit Hampton’s name to the Department for approval until August 24, 2012.